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OFFICE OF PETITIONS

In re Application of

Ferguson, et al.

Application No. 09/263,358

Filed: March 5, 1999

Attorney Docket No. TAN98-24

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DECISION ON PETITION

This is concerning the "Petition for Expedited Examination of Patent Application under 37 CFR 1.182, Status Inquiry, and Request for Consideration of Previously Submitted Amendment of October 22, 2003", filed September 18, 2006, which will be treated as petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application became abandoned on August 23, 2003, after it was believed that no response was received to non-final Office action mailed May 22, 2003. The non-final Office action allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). Although a Notice of Abandonment has not yet been issued, the application was abandoned by operation of law because no response to the non-final Office action was made of record in the application prior to the expiration of the statutory period for reply.

The instant petition maintains that the response to the non-final Office action was mailed on October 22, 2003¹, with a request for an extension of time within the second month. A copy of the Office date-stamp postcard whereby the Office acknowledged having received a response October 27, 2003, accompanied the petition.


Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

¹ A certificate of mailing dated October 22, 2003, is noted on the amendment.

The petition of \$400.00 will be refunded because the petition was not treated under 37 CFR 1.182.

The application file is being forwarded Technology Center 2600, GAU 2617, for further processing, including acknowledgement of the amendment filed October 27, 2003, which was filed in duplicate on September 18, 2006.

Inquires relating to this decision may directed to the undersigned at (571) 272-3222.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions